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6 IN THE UNITED STATES DISTRICT COURT
7 FOR THE DISTRICT OF ARIZONA

8 Thomas E. Russell,) No. CV 11-01463-PHX-FJM
9 Plaintiff,)
10 vs.) **ORDER**
11 OneWest Bank FSB, et al.,)
12 Defendants.)
13 _____)

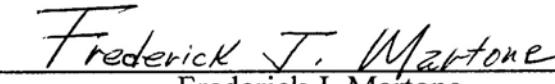
14 The Clerk entered default against defendant Fairway Independent Mortgage
15 Corporation ("Fairway") on October 17, 2011 (doc. 27). Plaintiff failed to file a motion for
16 default judgment. On January 11, 2012, Fairway filed a motion to set aside entry of default
17 (doc. 45), which plaintiff does not oppose (doc. 50). Fairway also filed a motion to dismiss
18 (doc. 47), to which plaintiff responded (doc. 50) and Fairway replied (doc. 51).

19 Fairway seeks dismissal based on plaintiff's failure to comply with our order of
20 January 6, 2011, ordering plaintiff to show good cause why the case should not be dismissed
21 for lack of prosecution. (Doc. 44). But Fairway's motion to set aside entry of default makes
22 our January 6 order moot.

23 **IT IS ORDERED GRANTING** Fairway's unopposed motion to set aside entry of
24 default (doc. 45).

25 **IT IS FURTHER ORDERED DENYING** Fairway's motion to dismiss (doc. 47) as
26 premature, without prejudice to filing a new motion to dismiss on the merits.

27 DATED this 9th day of March, 2012.

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Frederick J. Martone
United States District Judge